

## **REMARKS/ARGUMENTS**

(Please refer to the Marked-up version and the Substitute Specifications, the New Abstract, and the new list of claims, all included in the Appendix to this paper, as well as the Annotated and Replacement Sheets of the Drawings)

### **Amendments to the Specification**

#### **Classification Amendment**

This amendment is proposed and respectfully requested because after the amendments of the claims and specifications, the field of the Dancing Toy Lollipop object of the present patent application has been limited, eliminating classifications related to electronic, surgical, motor driven devices, and other fields which are beyond the scope of the present application.

#### **Terms improperly used**

In the original version of the Specification there were several key terms improperly used that induced to confusion. Some of them were pointed out by the Examiner and others have been found by the author.

- Thus, the term “grapple” was improperly used to refer to the retaining means, not providing a convenient redefinition to clarify that the term referred to miniature hooks like elements, and made more difficult for the examiner the analysis of the Specification in its original version. For that reason, in the “marked up” and in the “clean” or “substitute” versions of the specification submitted, attached to the present response to the Office Action Notice, the author replaces said term with the generic term “retaining elements”, which are rather a sort of tiny flexible latches that may have a great diversity of configurations and operation principles, including brief descriptions when a specific configuration is referred to for the first time throughout the description of the figures.

-The use of the term “candy” in the original version of the Specification, referring to the edible part of a lollipop, also was misleading since that term is often used to refer to lollipops as a whole. For that reason, the author has replaced said term in the amendments with the term “edible part” or “edible piece”, to clarify that the author refers not to the lollipop as a whole, but just to the edible part of it.

-The use or the term “candy holder” in the original version of the Specification, referring to the stick used in lollipop candies, was not appropriate and induced to misinterpretation since it is usually associated to lollipop holding and driving devices. For that reason, among the amendments, the author replaces said term with the term “holding stick”, or simply “stick”, to clarify that it refers just to the usually not edible part of a lollipop, for the user to hold the candy with his/her hand, and not to any kind of driving holding devices.

Several paragraphs in the original Specification has been deleted by the author in the Substitute Specification because they were not directly related to the object of the present application, in order to avoid misunderstanding and, on the other hand, several new paragraphs have been added in order to clarify that the present innovative lollipop or any of its inherent features, associated to this new kind of lollipops, have not been anticipated by any of the prior patented inventions listed in the Office Action Notice.

### **Prior Art Patents**

The misunderstanding that led the Examiner to compare the dancing toy lollipop object of the present patent application with those listed in the Action Notice, which are mostly related to candy driving holders, was mainly due to the misuse of the terms above mentioned and other mistakes within the original versions of the Specification and the Claims, many of them pointed out by the Examiner.

In the Office Action Notice of 05/17/2004, according to the Examiner, the Dancing toy lollipop object of the present application was anticipated, particularly, by the Lollipop holder patented in 1996 by Liaw, and in general by some other patented inventions. However, during the search previous to the submission of his application, the author found and analyzed almost all of the patents listed in the Action Notice, and neglected them based in the fact that those inventions are related to a different field which refers to driving candy holders, except in the case of the Safety Lollipop patented by Davis in 1966. During a phone conversation held with the Examiner, the author explained the true object of his application. Nevertheless, having analyzed the Examiner's remarks contained in the Action Notice, the author realizes that the Examiner is right regarding the improper use of some of the terms whose replacement is being proposed, and furthermore, found other terms, also subjected to amendment, which were improperly used and misleading, being said improper use of terms the main reason for the misunderstanding.

Nevertheless, in the following paragraphs, which are also added within the Amended Marked up Specification and the Substitute Specification as new added paragraphs, the author discusses in detail each of the Examiner's observations included in the Action Notice of 05/17/2004.

In all listed prior art patented candy holders, when the author claims or teaches any novel element or features apparently similar in name or function to some mentioned in the present application, such elements or features are completely different in location, function and purpose, due to the fact that they refer to candy holders which are mainly intended to transmit amusing movements to conventional lollipops, whose holding sticks are inserted into said driving candy holders.

Thus, when Liaw, in his Lollypop holder, US patent No. 5,536,054 issued on July 1996, describes an upper end portion and an open cavity, said upper end portion is located at the top end of his candy holder and said open cavity is located in said upper end portion, being its

purpose to receive the free end of the stick of a conventional or novelty lollipop to make the candy lollipop, as a whole, to perform a certain pattern of motion caused by the candy holder object of his invention, while in the present application, the cavity is located inside the edible part of a novel type of lollipop, and its purpose is to provide an opening for its loose assembling to the lollipop stick, thereby converting the edible piece into a movable element relative to the lollipop stick, and not the lollipop candy as a whole, when the candy is held and manually moved in any way by the user, while, in turn, the lollipop stick is converted into an independent disposable or reusable holding element for the movable edible pieces.

Therefore, when Liaw teaches the candy holder with all its components, he refers to the main object of his invention which is to hold and actively cause the movement of conventional lollipops as a whole, by means of the candy holder which is in fact a certain type of powered driving device.

Contrary to Liaw's and many other inventions, which refer to candy holders driving devices, the present application refers to a simple lollipop with a edible piece assembled to a holding stick almost as in conventional lollipops, but with the essential difference that, instead of being tight and rigid as in conventional lollipops, the union between the edible piece and the stick, is loose, in order to allow, (not to cause, as most lollipops holders do), the free movement of the edible piece in relation to said holding stick, when the candy, alone as a whole, is subjected to movement caused by the user's hand holding the stick of the lollipop, as a simple funny toy, or by the user's tongue, inside his/her mouth, when the dancing toy lollipop is licked and/or sucked by the user, behaving said novel lollipop in a way very similar to common candies not rigidly attached to a stick as conventional lollipops.

On the other hand, when Liaw and others mention and describe retaining means, they refer to elements located in the cavity of a candy driving holder device, with the purpose of retaining securely in position the holding stick of conventional lollipops inserted into the holder device

cavity or, alternately, in the case of candy holders with male holding elements in the form of stems, they refer to secure means to retain tightly and securely attached candy pieces of female configuration to match the holder stem, while in the present application, the retaining means are located or related to the stick of the lollipop, and their purpose is to retain one or more movable edible pieces of the lollipop loosely assembled to said lollipop holding stick, and not to any driving holder device.

Furthermore, the retaining means of the holding stick, combined with the interior cavity of the movable edible pieces integrating together the present application, provide, not a tight, but a loose union between both parts, with the purpose to allow, in a passive way, a great variety of free motions of the edible pieces of the lollipop in relation to its holding stick, when the candy toy is moved manually by the user.

Coleman et al. have patented many different candy holders devices, such as the Novelty candy holder and dispenser, US patent No. 5,874,119, issued on February 1999, the Swirlee pop, US patent No.5,921,841, issued on July 1999, and the Nearly headless noisemaker candy toy, US patent No.6,402,580, issued on June 2002, with a great variety of innovations, but all of them refer to electrical or mechanical driving candy holders whose main purpose is to securely hold conventional lollipops and actively cause their movement in diverse amusing patterns, including other novelties always related to the holding devices.

Filo et al, invented a Sound-transmitting amusement device and method, US patent No.5,902,167, issued on May1999, but his invention comprises sound emission devices, related, like in the previous prior art inventions, to candy holders as separate devices that are connected in different ways to conventional lollipops.

Finally, the only prior art patent truly related to the field of the object of the present application within those listed in the Action Notice, is the Safety Lollipop, invented by Davis, US patent No.3,264,115, issued on August 1966, that comprises a novel lollipop articulated

stick which refers to a novel lollipop candy and not to a holding driving device. However, in his invention, the edible piece of the lollipop is tightly attached to the holding stick, like in known lollipops. Hence, the only similarity of Davis' invention with the dancing toy lollipop object of the present application is that both refer to the same general field of lollipops or candies provided with holding elements.

The author respectfully considers that the above discussion shows that the dancing toy lollipop with its novel features object of the present application has not been really anticipated by any prior patented invention, as it could seem at first sight mainly due to all the mistakes contained in the original versions of the Specification and the Claims.

### **Claims**

-Amended: Following the Examiner's remarks, the author has thoroughly revised and extensively and substantially amended 11 claims: 1, 2, 5, 6, 7, 8, 9, 11, 14, 16 and 20. The author considers these amended claims relevant for this invention patent application, and for that reason, respectfully requests the replacement of the corresponding claims submitted in the original version with the attached clean version of the Listing of Claims. (Please find the Clean version of the Listing of Claims included in the Appendix)

-Cancelled: Following the Examiner's remarks, the author has cancelled 12 claims: 3, 4, 10, 12, 13, 15, 17, 18, 19, 21, 22 and 23. Those cancelled claims, after the revision made by the author based upon the Examiner's remarks and advices, were found not relevant or not sufficiently related to the object of the present application.

### **Drawings**

Regarding the drawings, the Examiner pointed out in the Office Action Notice that there were formal mistakes in the numbering of the figures and in the designations of elements or parts of elements. To comply with those Examiner's remarks, the author has proceeded to make the corresponding amendments:

- 1) In the original version of the drawings, in many drawing sheets, there were different views identified as FIG. with the same number followed by a consecutive capital letter and all of them, considered as a group of views of the one same figure, were identified as FIG. followed by the same number. In all those cases, the identification as FIG. of the group of views was deleted, remaining only the identification of each view as FIG. followed by the number and the consecutive capital letter.
- 2) In the original version of all the figures, all elements or part of elements with the same function were identified with the same couple of right digits, while the digits at left indicated the number of the figure where it was referred to for the first time. However, no consideration was made with respect to the configuration of said elements or part of elements, so that, for example, if an element with the function of holding stick was referred to in FIG. 1A, as 101, throughout all the rest of the figures, any element with the same function, although with significant differences in configuration, were identified with the same number 101. To amend this issue, in the new replacement sheets of drawings, the author has modified the system to designate the elements or part of elements, keeping the two digits at the right to identify the kind of element or part of element according to their function, but replacing the digits to the left with the number of the figure where for the first time was referred to a different configuration of an element or part of element although with the same function. For example: the holding stick in FIG. 1A, is identified, as 101, while in FIG. 7A, the element with the same function of holding stick, but very different in configuration, is identified as 701.
- 3) When the situation described above occurs in a same figure: i.e., in an element with similar though slightly different function but totally different configuration, since it could have the same numerical identification, a lower case letter is added at the end of the identification number, as for example, the holding stick attachment in FIG. 1A, which identified as 101a.
- 4) When an element with exactly the same function, but with different configuration, is referred to in a view identified with the same number of FIG. followed by a different capital letter, since the identification number would be the same, a prime symbol is added

to differentiate both elements. For example, in FIG. 1A, is shown and referred to for the first time the movable edible piece identified as 102, with spherical shape, and in FIG. 1E is shown and referred to for the first time a movable edible piece too, but with conical shape, identified as 102'.

- 5) For the indications of movement, dotted arrow lines are used, designated by a capital M followed by consecutive numbers, which are repeated in different figures, whenever components with the same function are involved in movements which are of the same type and direction. And for the identification of sections, details and direction of views, consecutive not repeated roman numbers are used.

#### **Final comments**

Since the Specification was plagued with misused terms and formal deficiencies requiring substantial and extensive amendment, in addition to the Marked up version, of the original Specification, a new clean version has been included as Substitute Specification, and the author respectfully requests the replacement of the original version with this Substitute Specification as well as the Abstract of Disclosure with the new one also included.

The author hopes that the present response to the Office Action Notice of May 17, 2004, will be satisfactory to clarify the misunderstandings and to amend the insufficiencies and mistakes in the Specification and Claims originally submitted, complying with the Examiner's remarks and indications.

Respectfully submitted,

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NOTE: For any further clarifications, please, contact the author at your best convenience

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**APPENDIX**

CONTENTS:

- 1.- ANNOTATED SHEETS OF FIGURES 1 TO 21 SHOWING ALL CHANGES
- 2.- REPLACEMENT SHEETS OF FIGURES 1 TO 21
- 3.- MARKED UP VERSION OF SPECIFICATION
- 4.- NEW REPLACEMENT ABSTRACT
- 5.- CLEAN LIST OF CLAIMS WITH NEW ORDER SUGGESTED BY AUTHOR
- 6.- CLEAN AMENDED OR SUBSTITUTE SPECIFICATION
- 7.- CD WITH ALL THE DOCUMENTS ABOVE LISTED (TEXTS IN MICROSOFT  
WORD-OFFICE 2000; AND DRAWINGS IN AUTOCAD 2000)